

CERTIFICATE OF TRANSMISSION

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Typed or Printed Name of Person Signing Certificate:

Signature:

Nicholas Rylander

PATENT

Docket No. P1627

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: RAY SKAGGS

SERIAL No. 10/720,418

EXAMINER: WARTALOWICZ, P.

FILED: NOVEMBER 24, 2003

ART UNIT: 1754

TITLE: REMOVABLE FLEXIBLE PANEL

COMMISSIONER FOR PATENTS

P.O. BOX 1450

ALEXANDRIA, VA 22313-1450

AFFIDAVIT OF NICHOLAS RYLANDER

(37 CFR § 1.132)

In support of the response to the Office Action dated November 8, 2002 filed herewith,

Mr. Nicholas Rylander deposes and states as follows:

1. My name is Nicholas Rylander and I am of lawful age.
2. I am the inventor of U.S. Patent No. 4,749,011.
3. My invention, as set out in the '011 Patent, is a device for use with a flexible bag to hold the bag open to allow access to its the interior. The invention is a substantially flat body being constructed from a sufficiently flexible material to allow for its deformation and insertion into the previously stated flexible bag. One such material, as set in the '011 Patent, is a polycarbonate material having a thickness of 0.060 inch. The flexible material also has sufficient memory characteristics such that the body will open back into its initial flat configuration upon being removed from the bag. My invention does not penetrate into any part of the flexible bag, nor tear or rip into the bag.
4. I have reviewed U.S. Patent No. 5,884,454 issued to Steinmetz. Based on my experience with designing a flexible bag device, I would not consider putting this rod into the flat body portion of my inventive device. First, given that my device includes a substantially flat body, the

Steinmetz rod, which has a thickness of at least 3/16 inches, would not be compatible with my device. This is shown in the Steinmetz patent where it indicates that the greater the rod thickness, the more stiff the device. Secondly, the Steinmetz device relies upon the penetration of the bag in order to properly function. Steinmetz relies upon either a drawstring or a hem having a tunnel in the bag. Without one, Mr. Steinmetz's device would need to rip or tear into a bag to function. My device does not need any special bag. This allows a user to use my device with any flexible bag. Third, the Steinmetz device does not open the interior of the bag, but merely its opening.

5. Accordingly, while the Steinmetz and my device aid in the bagging of waste material, that is where the similarities end. My device is a flat body that is inserted into the interior of a bag. Steinmetz's device is a thick rod, having either a pointed end or square end for penetrating either the hem of the bag or the bag itself. Thus, based on my experience and the differences between the two devices, I would not consider combining these two devices.

6. I have also reviewed U.S. Patent No. 3,736,973 issued to Mezzanotte. This patent discusses an invention related to radial tires, and as such would not be the sort of disclosure I would consider when developing my inventive device. My device is for use with a flexible bag of the sort that is commonly used with leaves, grass and other trash. The Mezzanotte radial tire patent is not related to trash, grass, lawn clippings, leaves, debris or other waste products. In other words, this patent is not in the same field of endeavor as my patent. As such, I would not consider that patent as being relevant to my device.

7. Moreover, the Mezzanotte patent teaches how to stiffen and make non-flexible the sidewall of a radial tire by the inclusion of metal cords within the tire. If I were to attempt to improve upon my device, I would not consider the Mezzanotte patent due to this teaching. My device requires flexibility to perform. Since the Mezzanotte patent teaches how to stiffen, and more importantly, how to make non-flexible, this patent would not be one I would consider when improving upon my invention. In other words, this patent is not reasonably pertinent to the problem set out in my patent, i.e. designing a device having sufficient flexibility for insertion into a flexible bag.

8. In the event of the combination of my device with the teachings of the Steinmetz and Mezzanotte patents, the result would not be a flexible panel, but rather a stiff body that does not have sufficient flexibility to be inserted into a flexible bag and having sufficient memory to return to its initial configuration upon removal. More specifically, this combination would result in a body having a thickness significantly greater than that set forth in my patent for the purpose of

increasing stiffness and eliminating flexibility. Since it is taught by Steinmetz that the greater the thickness, the stiffer the item, the expectation of having a sufficiently flexible body with such thickness to bend such that it can be inserted into a flexible bag is not reasonable.

9. I have reviewed the Skaggs application, and considered whether it would be obvious based on the combination of my patent, the Steinmetz and the Mezzanotte patents. The Skaggs application does not teach the use of thick rods within its body. Nor does it teach or disclose a device being stiff and without flexibility. It utilizes substantially flat metal inserts embedded in a substantially flat body, which has the flexibility to be rolled up and placed within a flexible bag. Based on these differences and those set out above, I would not find the Skaggs device to be obvious based on the combination of my patent, along with the Steinmetz and Mezzanotte patents.

Further Affiant Sayeth Not

Nicholas Rylander  
Nicholas Rylander

State of Oklahoma    )  
                                  )  
County of Tulsa        )

BEFORE ME, the undersigned Notary, Cheryl A. McDonald,  
on this 27th day of June, 2006, personally appeared  
Nicholas Rylander, known to me to be a credible person and of law age, who being by me first  
duly sworn, on his oath, did depose and say the foregoing.

Notary Seal:

Cheryl A. McDonald  
Notary      Commission # 16554

